

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JULIE CARTER,)
)
Plaintiff,) 4:08CV3085
)
v.)
)
STEPHEN BAILEY and) MEMORANDUM AND ORDER
KEITH YARBROUGH,)
)
Defendants.)
)

By memorandum and order of December 17, 2008, filing no. 12, the parties were given until December 29 to meet and confer in accordance with Fed. R. Civ. P. 26(f) or show cause why sanctions should not be imposed for their failure to do so. Plaintiff has complied with the order by showing the reasons her counsel have been unable to comply with the "meet and confer" requirement. Defendant Bailey, however, has not responded to the order. Defendant Bailey is, therefore, in default, and I shall have the clerk enter his default in accordance with Fed. R. Civ. P. 55(a). Any motion for default judgment should be made separately in accordance with Rule 55(b).

By separate memorandum and order of the same date, filing no. 13, plaintiff was given ten days to show cause why the matter should not be dismissed as to defendant Keith Yarbrough for failure to timely serve him with process. In response, plaintiff's counsel state that despite diligent efforts, they have been unable to locate him. Counsel request additional time in which to do so. I shall grant that request.

IT THEREFORE HEREBY IS ORDERED,

1. The clerk shall enter the default of defendant Bailey. The clerk shall send notice of this order to defendant Bailey at his last known address, but henceforth no further pleadings, notices, or papers, or copies thereof need be transmitted or sent to him.

2. Plaintiff is given until April 10, 2009 to serve defendant Yarbrough with process in this matter, in the absence of which the case may be dismissed as against said defendant, without prejudice.

DATED this 8th day of January, 2009.

BY THE COURT:

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge